

## Frequently Asked Questions and Answers:

### The New Portable Physician's DNAR Order and Rule

1. Can a facility modify the form in any way?

Answer: YES – First and foremost the TIME of authentication of the DNAR order should be hand-written in after the date of the physician's signature, especially in the hospital setting where this is a CMS requirement (see below). In addition, many have commented that the physician's license number (or other identifier) should be added under the physician's name to better distinguish the person signing the form from others with the same or similar name. Nevertheless, a signed and dated form, even without the time of signature, can be accepted as a valid DNAR form by a receiving hospital.

The form may be individualized with a facility or corporate logo; a bar code or other patient identifier may be added. The form is valid if printed on one page front and back or on two separate pages; is valid if electronically reproduced or if copied on colored paper. It is not necessary for a valid form to have the ADPH seal as a watermark in the background. However, **the exact wording of the form itself may not be changed at all unless it goes back to the Board of Health for approval.**

The Alabama State Advisory Council on Palliative Care and Quality of Life recommends that every institution and agency adopt the color PINK for this transferrable DNAR form.

2. Why was this necessary?

- Answer: The Natural Death Act, *Ala. Code 22-8A-1 et seq.*, contains provisions that affirm the right of competent adult persons to control the decisions relating to the rendering of their own medical care. Such decisions include, without limitation, the decision to have medical procedures, life-sustaining treatment, and artificially provided nutrition and hydration provided, withheld, or withdrawn in instances of terminal conditions and permanent unconsciousness. However, until recently, there has been no law or guidance for "Do Not Resuscitate" ("DNR") or "Do Not Attempt Resuscitation" ("DNAR") orders even though they are routinely used in health care settings throughout the state.

3. Why is this order called a Physician's "Portable" DNAR Order?

- Answer: Before this change, when a **Do Not (Attempt) Resuscitation (NO CODE; DNR)** order was entered at one health care facility, it was enterprise/corporate specific. The order was no longer received as a valid order to be accepted and implemented by other providers after the discharge/transfer of a patient to another facility; for example, from a hospital in north Alabama to a long-term care setting in central Alabama. In the 2016 session, the Alabama Legislature passed Act #2016-96 amending Alabama's Natural Death Act to address DNAR orders that do transfer with a patient/resident and to endorse the immediate acceptance and implementation of a valid DNAR order in separate and diverse health care settings.

4. How can an order written by a physician from a different region or outside facility be accepted and followed for a patient/resident admitted to my facility?

- Answer: One suggestion is that every health care facility amend hospital bylaws and/or the facility's policy and procedure statement to reflect acceptance of a DNAR order from any physician when a "valid", complete official order form is received – based on the provisions of the statute which applies to all facilities in the state.
5. What constitutes a "Valid" Portable Physician DNAR Order?
    - Answer: The amendments provides that the State Board of Health may adopt rules to implement this act as amended. In July 2016, the Alabama Department of Public Health developed a proposed rule and form for portable DNAR Orders. The rule allows a physician to enter a Portable Do Not Attempt Resuscitate order that transfers from one facility to the next facility if issued using a properly completed and executed form found in Appendix II of the rule. This passed the usual process of adoption by the Committee of Public Health and became final on October 3, 2016.
  6. Where can I find the Rule and the Form for a Physician's Portable DNAR Order?
    - Answer: Both are easily found on the web site of the Alabama Department of Public Health by entering "DNR" or DNAR" in the search box at the top left side of the home page. In addition the rule and form are available by clicking on the heading of: Laws/Regulations found in the green banner at the top of the HOME page. The very first entry is the rule and form for the surrogate decision maker; and following this are the rule and form for Portable Physician DNAR Order. The rule and form can be found on the Palliative Care page as well.
  7. Can an Alabama facility accept a complete, valid Alabama Portable Physician's DNAR form when signed by a physician licensed in another state?
    - Answer: YES. But it the responsibility of the accepting facility to verify the physician's licensure status and that all of the required information is completed and correct.
  8. Who is authorized to be the one to sign section II of the DNAR form?
    - Answer: This section is to some extent complex and has two subdivisions. The signature which follows this section must be placed by someone who is authorized to attest:

First, that the: **"..patient/resident is not competent or is no longer able to understand, appreciate, and direct his/her medical treatment and has no hope of regaining that ability."**

Secondly: **"A duly executed Advance Directive for Health Care with instructions that no life sustaining treatment be provided was previously authorized by the patient/resident and is part of his/her medical record."**

It is not necessary that this section is signed by a physician. A person such as a licensed administrator, a social worker, PA or CRNP, a nurse or other facility representative who is authorized to review the medical record and attest to the documentation in the medical record could sign that these statements are true and correct.

In the setting of use of this form by a patient at home for whom the family member is signing the form, the proper certification would be for that family member to sign Section 4 and have his/her signature on a signed and notarized Surrogate Decision Maker Form attached.

9. Can a facility still use their traditional “DNR” order form and policy?
  - Answer: YES – however, such DNR orders do not transfer with any patient to another care site.
  
10. Is a POLST form from another state (or one that is downloaded from the internet) be substituted for the Portable DNAR form in Appendix 2?
  - Answer: NO
  
11. Can this form be used for a patient who is a minor, under the age of 19 years?
  - Answer: NO. The amendments in 2016 did not change the fundamental elements of the Alabama Natural Death Act.
  
12. Can a PA or CRNP sign a Portable Physician DNAR order?
  - Answer: NO
  
12. Can this form be used for a patient/resident who wants a “Full Code”?
  - Answer: NO – The rule and form are specifically written to allow a “No Code” or DNR order to be transferred from one facility to another.
  
13. Is the acceptance of a valid Portable Physician’s DNAR order mandatory?
  - Answer: This act does not specifically mandate the acceptance of a valid DNAR form as an order in the facility receiving a patient/resident from another facility. However, the Natural Death Act and the federal Patient Self Determination Act (PL 101-508) have established a legal basis for the right of a patient/resident to direct his/her own health care including withholding or withdrawing life sustaining treatments. Should a patient/resident experience cardiopulmonary cessation immediately after arrival at the new location and before an internal assessment and completion of the paperwork for a facility-specific DNR order can be written, there could be adverse legal action against the receiving facility based on the knowledge of and receipt of the valid Portable Physician DNAR Order form.
  
  - The acceptance of a valid Portable Physician DNAR Order form is not a part of any facility rule and will not be investigated during the survey process. Failure by staff in any federally certified health care facility to document and follow the resident’s wishes with respect to CPR in the event of cardiopulmonary cessation will be investigated and enforced exactly as is currently stipulated by CMS regulations.
  
  - The Board of Medical Examiners has exclusive authority to adopt rules relating to **physicians** in implementing the act as amended. To date, there has been no action taken in this regard by the BME.